

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 1:CR-88-172-01
	:	
	:	
v.	:	
	:	
	:	
BENJAMIN WEST	:	

MEMORANDUM AND ORDER

Before the court is a motion for modification of sentence filed by Defendant. Defendant was sentenced on November 30, 1987. On July 5, 1990, the Third Circuit Court of Appeals affirmed Defendant's conviction and sentence. Defendant filed a motion pursuant to 28 U.S.C. § 2255 which motion was denied on August 7, 1997. On April 20, 1998, Defendant filed a request for a certificate of appealability which was denied by this court on April 27, 1998. On December 18, 2000, this court denied a motion for relief from judgment filed pursuant to Rule 60(b) (c) and (4) and construed the motion as one pursuant to 28 U.S.C. § 2255. On February 20, 2001, the United States Court of Appeals for the Third Circuit denied Defendant's application for permission to file a second or successive motion pursuant to 28 U.S.C. § 2255. On August 2, 2004, Defendant filed a motion for review of sentence pursuant to 18 U.S.C. § 3742(a)(1) & (2). This motion was denied on September 21, 2004. On May 23, 2005, Defendant filed another appeal with the circuit court which was denied on September 20, 2005. On September 30, 2005, Defendant filed a motion to vacate sentence. Counsel was appointed to represent Defendant in this matter. On August 28, 2006, the United States Court of

Appeals for the Third Circuit denied Defendant's application for a second or successive petition pursuant to 28 U.S.C. § 2255.

The instant motion seeks an adjustment of sentence pursuant to 18 U.S.C. § 3582(c). The Government has filed a response in which it points out that changes in the guidelines and amendment 591 of the United States Sentencing Guidelines does not affect Defendant's original guideline. This court finds no basis to reduce the sentence under 18 U.S.C. § 3582(c)(2).

IT IS THEREFORE ORDERED THAT:

- 1) The court adopts the well-reasoned response of the Government.
- 2) Defendant's motion for modification of sentence is **DENIED**.

s/Sylvia H. Rambo

SYLVIA H. RAMBO
United States District Judge

Dated: January 25, 2007.